

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

)	
FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 04-CV-11136GAO
)	
DIRECT MARKETING CONCEPTS, INC., et)	
al.,)	
)	
Defendants.)	

AFFIDAVIT OF CHRISTOPHER F. ROBERTSON

I, Christopher F. Robertson, being duly sworn, do hereby depose and state that:

1. I am an attorney admitted to practice law in the Commonwealth of Massachusetts and am associated with the law firm of Seyfarth Shaw LLP, counsel for Defendants Direct Marketing Concepts, Inc., ITV Direct, Inc., Donald Barrett and Robert Maihos (the “DMC Defendants”). I submit this affidavit in support of the DMC Defendants’ Opposition to the FTC’s Motion for Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and accurate copy of the complaint filed in *Direct Marketing Concepts, Inc. v. FTC*, C.A. No. 05 CV 11930 GAO, dated September 23, 2005.

3. Attached hereto as Exhibit 2 is a true and accurate copy of the complaint filed in *Federal Trade Commission v. Kevin Trudeau, et al.*, C.A. No. 03 C 3904, dated June 9, 2003.

4. Attached hereto as Exhibit 3 is a true and accurate copy of the Plaintiff The Federal Trade Commission's Notice of Filing, Stipulated Final Order for Permanent Injunction and Settlement of Claims for Monetary Relief as To Defendants Robert Barefoot, Deonna

Enterprises, Inc. and Karbo Enterprises, Inc., filed in *Federal Trade Commission v. Kevin Trudeau, et al.*, C.A. No. 03 C 3904, dated January 15, 2004.

5. Attached hereto as Exhibit 4 is a true and accurate copy of the Stipulated Final Order for Permanent Injunction and Settlement of Claims for Monetary Relief as To Defendants Kevin Trudeau, Shop America (USA), LLC, Shop America Marketing Group, LLC, Trustar Global Media, Limited and Relief Defendants K.T. Corporation, Limited and Trucom, LLC, filed in *Federal Trade Commission v. Kevin Trudeau, et al.*, C.A. No. 03 C 3904, dated September 2, 2004.

6. Attached hereto as Exhibit 5 is a true and accurate copy of the Answer, Affirmative Defenses Order and Counterclaim of Kevin Trudeau, Shop America (USA), LLC, and Shop America Marketing Group, LLC, filed in *Direct Marketing Concepts, Inc. v. Kevin Trudeau, et al.*, C.A. No. 02 C 9014, dated January 3, 2003.

7. Attached hereto as Exhibit 6 is a true and accurate copy of the transcript of the deposition of Donald Barrett, taken on March 25, 2002 in *Kevin Trudeau, et al. v. Direct Marketing Concepts, Inc., et al.*, C.A. No. 02 C 1586 (N.D. Ill.).

8. Attached hereto as Exhibit 7 is a true and accurate copy of the transcript of the deposition of Allen Stern, taken on March 25, 2002 in *Kevin Trudeau, et al. v. Direct Marketing Concepts, Inc., et al.*, C.A. No. 02 C 1586 (N.D. Ill.).

9. Attached hereto as Exhibit 8 is a true and accurate copy of the transcript of the deposition of Allen Stern, taken on January 14, 2003 in *Wellness Publishing, et al. v. Robert R. Barefoot, et al.*, C.A. No. 02-3773 (D.N.J.).

10. Attached hereto as Exhibit 9 is a true and accurate copy of the transcript of the deposition of Robert Barefoot, taken on September 11, 2004 in *Kevin Trudeau, et al. v. Direct Marketing Concepts, Inc., et al.*, C.A. No. CV 02-02707 (C.D. Cal.).

11. Attached hereto as Exhibit 10 is a true and accurate copy of the book *The Calcium Factor*, written by Robert R. Barefoot and Carl J. Reich, M.D. (5th Ed. 2002). The first printing of the book was November 1992.

12. Attached hereto as Exhibit 11 is a true and accurate copy of the book *Death By Diet*, written by Robert R. Barefoot (4th Ed. 2002). The book was first printed in 1996.

13. Attached hereto as Exhibit 12 is a true and accurate copy of *Doctor Voigt's Little Book about Coral Cal Daily: All you want to know And have asked!*, written by Richard G. Voigt, M.D. (1998).

14. Attached hereto as Exhibit 13 is a true and accurate copy of Exhibit B to Zeeb Declaration, filed on June 11, 2003 in *Federal trade Commission v. Trudeau*, No. 98 C 0168, attaching articles concerning coral calcium.

15. Attached hereto as Exhibit 14 is a true and accurate copy of Defendant ITV Direct, Inc.'s Responses to Plaintiff Federal Trade Commission's First Set of Interrogatories.

16. Attached hereto as Exhibit 15 is a true and accurate copy of Defendant Direct Marketing Concepts' Responses to Plaintiff Federal Trade Commission's First Set of Interrogatories.

17. Attached hereto as Exhibit 16 is a true and accurate copy of the transcript of the deposition of defendant Michael Leland Howell, taken on August 17, 2004 in *ITV Direct, Inc. v. Healthy Solutions LLC*, C.A. No. 04-CV-10421-JLT (D. Mass.).

18. Attached hereto as Exhibit 17 is a true and accurate copy of the transcript and exhibits of the deposition of defendant Alejandro Guerrero, taken on August 16, 2004 in *ITV Direct, Inc. v. Healthy Solutions LLC*, C.A. No. 04-CV-10421-JLT (D. Mass.).

19. Attached hereto as Exhibit 18 is a true and accurate copy of the transcript of the deposition of defendant Gregory R. Geremesz, taken on August 18, 2004 in *ITV Direct, Inc. v. Healthy Solutions LLC*, C.A. No. 04-CV-10421-JLT.

20. Attached hereto as Exhibit 19 is a true and accurate copy of the transcript of the deposition of defendant Gregory R. Geremesz, taken on August 19, 2004 in *ITV Direct, Inc. v. Healthy Solutions LLC*, C.A. No. 04-CV-10421-JLT.

21. Attached hereto as Exhibit 20 is a true and accurate copy of Kevin Trudeau's and Shop America (USA), LLC's responses to plaintiffs' preliminary interrogatories, served in *Wellness Publishing, et al. v. Robert R. Barefoot, et al.*, C.A. No. 02-3773 (D.N.J.) on December 12, 2005, reflecting sales of coral calcium by Trudeau and Shop America of \$121 million.

22. Attached hereto as Exhibit 21 is a true and accurate copy of Defendant Direct Marketing Concepts' Responses to Federal Trade Commission's First Set of Requests for Admission.

23. Attached hereto as Exhibit 22 is a true and accurate copy of Defendant ITV Direct, Inc.'s Responses to Federal Trade Commission's First Set of Requests for Admission.

24. Attached hereto as Exhibit 23 is a true and accurate copy of Transcription of the Videotape of Infomercial Featuring Robert Barefoot, Kevin Trudeau and Debbie Flets in a show called "Debbie & Kevin Show".

25. Attached hereto as Exhibit 24 is a true and accurate copy of the transcript of the deposition of Kevin Trudeau, taken on February 6, 2003 in *Wellness Publishing, Holt, et al. v. Barefoot, et al.*, U.S.D.C. of New Jersey, C.A. No. 02-3773-JAP.

26. Attached hereto as Exhibit 25 is a true and accurate copy of the affidavit of Susan Graham, dated February 21, 2003 in *Barefoot, et al. v. King Media, et al.*, U.S.D.C. of Eastern District of Pennsylvania, C.A. No. 02-9526.

27. Attached hereto as Exhibit 26 is a true and accurate copy of the transcript of the deposition of Steven D. Ritchey, taken on February 13, 2003 in *Wellness Publishing, Holt, et al. v. Barefoot, et al.*, U.S.D.C. of New Jersey, C.A. No. 02-3773-JAP.

28. Attached hereto as Exhibit 27 is a true and accurate copy of biography of Robert Barefoot.

29. Attached hereto as Exhibit 28 is a true and accurate copy of the declaration of Andrew Malcher, dated January 13, 2003.

Sworn to under the pains and penalties of perjury this 10th day of February, 2006.

/s/ Christopher Robertson
Christopher F. Robertson